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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ANTHONY J. BURRIOLA,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS,

Defendant.

3:07-CV-102 JCM (VPC)

ORDER

Presently before the court is the matter of *Burriola, et al. v. Nevada Dep't. of Corrections, et al.*, case number 3:07-cv-00102-JCM-VPC. On June 8, 2010, the court affirmed the report and recommendation of United States Magistrate Judge Valerie P. Cooke in its entirety, thereby granting summary judgment in favor of defendants as to counts 1, 2, and 4, and dismissing counts 5-7. Doc. #156. On January 12, 2012, the Ninth Circuit issued its memorandum disposition, affirming in part, vacating in part, and remanding. Doc. #165. The mandate of the Ninth Circuit was spread upon this court's records on February 7, 2012. Doc. #167.

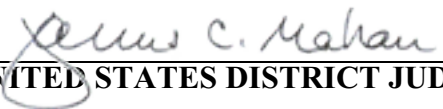
In light of intervening law, *see Rhodes v. Robinson (Rhodes II)*, 621 F.3d 1002 (9th Cir. 2010), the Ninth Circuit vacated this court's dismissal of counts 5-7 and vacated so that this court could apply *Rhodes II* in the first instance. Additionally, the Ninth Circuit vacated this court's grant of summary judgment as to Burriola's retaliation claims arising from the confiscation of his replacement typewriter in Count 1, finding that this court's ruling rested on the institution's categorical ban on typewriters, a ban that was enacted *after* the confiscation of Burriola's

1 replacement typewriter.

2 In light of the Ninth Circuit's ruling and remand,

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the parties submit
4 supplemental briefs regarding their position on the application of *Rhodes II* to claims 5-7 no later
5 than August 8, 2012.

6 DATED June 27, 2012.

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9 UNITED STATES DISTRICT JUDGE